

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**CALVIN PERRY,**

Plaintiff,

v.

Civil Action No. **3:21CV231**

**HAROLD CLARKE, et al.,**

Defendants.

**MEMORANDUM OPINION**

Plaintiff, a Virginia inmate, has filed a complaint pursuant to 42 U.S.C. § 1983. Plaintiff has not paid the filing fee. Thus, he presumably wishes to proceed without prepayment of fees and wishes to seek leave to proceed *in forma pauperis*. The pertinent statute provides:

In no event shall a prisoner bring a civil action [*in forma pauperis*] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.


28 U.S.C. § 1915(g). Plaintiff has at least three other actions or appeals that have been dismissed as frivolous or for failure to state a claim. *See Perry v. Virginia*, No. 7:08–CV–00193, 2008 WL 533997, at \*2 (W.D. Va. Feb. 27, 2008) (citations omitted) (dismissing action pursuant to § 1915(g) for having three strikes); *Perry v. Mills*, No. 3:07–CV–00445, 2007 WL 2821803, at \*2 (W.D. Va. Sept. 27, 2007) (same); *see also Perry v. Bassett*, No. 7:05–CV–519, 2005 WL 2217014, at \*6 n.1 (W.D. Va. Sept. 13, 2005) (noting plaintiff’s prior dismissals pursuant to § 1915(g)) (citations omitted); *cf. Perry v. Dobyys*, No. 3:20CV206, 2020 WL 6273980, at \*6 (E.D. Va. Oct. 26, 2020) (directing the clerk “to note the disposition of the action for purposes of 28 U.S.C. § 1915(g)”).

Plaintiff's current submission does not suggest that he is in imminent danger of serious physical harm.<sup>1</sup> Accordingly, his request to proceed *in forma pauperis* will be DENIED. The action will be DISMISSED WITHOUT PREJUDICE.

Plaintiff remains free to submit his complaint with the full \$402 filing fee. The Court will process such a complaint as a new civil action.

An appropriate Order shall accompany this Memorandum Opinion.

Date: 11 May 2021  
Richmond, Virginia

/s/   
\_\_\_\_\_  
John A. Gibney, Jr.  
United States District Judge

---

<sup>1</sup> As Perry has been previously advised, “[a]llegations that the inmate has faced imminent danger in the past are insufficient to trigger the § 1915(g) exception.” *Perry*, 2007 WL 2821803, at \*1 (citing *Abdul-Akbar v. McKelvie*, 239 F.3d 307, 307 (3d Cir. 2001); *Abdul-Wadood v. Nathan*, 91 F.3d 1023 (7th Cir. 1996)).